IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 20748 of 1995

Between:

Smt. Paladugula Nookalu W/o P.Venkata Rao,
R/o Ramachandra Puram, H/o Purushottam patnam,
E.G.District.

..... PETITIONER

AND

1 The Commissioner of Survey & Settlements, Govt of A.P,
Hyderabad.
2 The Director of Settlements,
Nampally, Hyderabad.
3 The Settlements Officer,
Vishakapatnam.
4 The Mandal Revenue Officer,
Seetha Nagaram Mandal, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ order or direction especially in the nature of Certiorari calling for the records relating to case no.p2/716/86 dt:11-7-94 on the file of the commissioner of survey, settlements and land records A.P Hyderabad confirming the order of Director of Settlements, Hyderabad, in R.P.No.AA1/85/84 dt:30-10-1985 and the order of the settlement officer, Vishakapatnam CF.No.182 dt:22-12-83 and quash the same and direct the respondents to issue a patta in favour of the petitioner herein U/S.11 of the A.P Estates Abolition.

Counsel for the Petitioner: MR.V.L.N.GOPALA KRISHNA MURTHY

Counsel for the Respondents No.: GP FOR REVENUE

The Court made the following :

ORDER:

This writ petition is filed seeking to quash the order dated 11-7-94 passed in P2/716/86 on the file of the Commissioner of Survey, Settlements and Land Records, A.P. Hyderabad confirming the order of the Director of Settlements, Hyderabad in R.P. No. AA1/85/84 dt. 30.10.1985 and the order of the Settlement Officer, Visakhapatnam in CF No.182 dt.22-12-83 and consequently to issue a patta in favour of the petitioner under Section 11 of the A.P. Estates Abolition Act, 1948.

It is the case of the petitioner that she purchased an extent of Ac 1.00 cents in Sy. No.167/2 at Purushottam Patnam Revenue village, East Godavari District from the sons of Kondepati Arjanna under a registered sale deed 12-5-1964 and since has been in possession and enjoyment of the same. While so, in 1978 the field staff of respondents reported enquiry under sec. 11(a) of A.P. Estates (A& CR) Act, 1948 in respect of the land in question and issued notices. Pursuant to the said notice, she claimed a ryotwari patta for the schedule land before the Settlement Officer, Rajahmundry under Section 11 (a) of the Estate Abolition Act, 1948. The Settlement Officer, Rajahmundry in his case No. 182 dt. 10.11.1978 disallowed the claim of the petitioner on the ground that no documentary evidence was produced by the petitioner to show how the schedule land has devolved upon Arjanna from the original pattedar Venkayya. The petitioner filed a revision against the said order of the Settlement Officer, Rajahmundry before the Director of Settlements. The Director of Settlements, Hyderabad, disallowed the claim of the petitioner for grant of ryotwari patta in his order in R.P.98/79 dt.15-7-1980 on the ground that there is no valid documentary evidence on record to show that said Arjanna got the land from the original pattedar and that the un-interrupted possession and enjoyment of the

schedule land by Arjanna, his sons and grand-sons who were the vendors of the petitioner from 1.7.1945 till the date of sale i.e., 12.5.1964 was also not proved by the petitioner.

Against the above order of the Director of Settlements, the petitioner filed a revision petition before the Commissioner of Survey, Settlements and Land Records who remanded the case to the Director of Settlements for fresh disposal in his order CSS & LR No. P2/4164/80 dt.11.1.1982. On remand of the case, the Director of Settlements cancelled the orders of the Settlement Officer, Rajahmundry in Case No.182 dt.10.11.1978 and remanded the case to the Settlement Officer, Visakhapatnam (3rd respondent) in R.P.No.7/82 dt.31.7.1982 for fresh enquiry and disposal according to law.

On remand of the case, in his order the 3rd respondent held enquiry and rejected the claim of the petitioner for grant of ryotwari patta in C.F.No.182 dt.22.12.1983 on the ground that the petitioner could not adduce any satisfactory documentary evidence through which she had purchased the claim land from the vendors and that the legality of sale is also not established and that the schedule land is still continued to be classified as waste. Aggrieved by the said orders the petitioner filed revision before the Director of Settlements, Hyderabad who in his R.P.No. AA1/85/84 dt.30.10.1985 disallowed the claim of the petitioner and confirmed the orders of the 3rd respondent. Against these orders, the petitioner filed a revision before the Commissioner of Survey, Settlement and Land Records who dismissed the claim in his case No. P2/716/86 dt.11.7.1994 on the ground that there is no proof of lawful induction of the claimant or her predecessor in title in this case as rightly observed by the Director of Settlements. Questioning the said order, this writ petition is filed.

The respondents filed a counter and denied the averments made in the affidavit of the petitioner stating that there is no evidence on record to show how the said Arjanna got the schedule land from the original pattedar and her lawful induction into possession and enjoyment of the schedule land before 1.7.1945 and as such the revision was rightly dismissed. The documents filed by the petitioner to show that she is in enjoyment of the land even prior to the commencement of the E.A. Act is not correct. It is for the petitioner or her predecessors in interest to prove that they were in physical possession and enjoyment of the schedule land and the vendors are legally entitled to dispose it prior to 1.7.1945 with reference to record of

evidence. There is no evidence on record to show that the said Arjanna got the schedule land from the original pattedar. Hence, the writ petition is devoid of merits and liable to be dismissed.

Having heard the learned Counsel appearing on either side, I have carefully gone through the material available on record.

As could be seen from the record, the petitioner seriously contested the matter at different stages. Admittedly, the matter was remanded twice and despite affording sufficient opportunity to the petitioner to establish her case, petitioner could not establish that she is entitled for grant of patta. The primary authority, the appellate authority as well as the revisional authority have recorded adverse concurrent finding against the petitioner, based on the material placed before them, to the effect that the petitioner had failed to establish her title and possession in respect of the land in question.

In this connection, it is apposite to notice the relevant portion of the impugned order dated 11.7.1994 passed by the first respondent, which reads thus:

> "In other words Arjanna and his sons have sold the same piece of land twice once in 1929 to one Pullaiah and again in 1964 to this lady Nookalu. The claimant seems to have filed 1929 registered document only to show that there was partition between arjanna and his three other brothers of the property of Venkaiah who was the original owner. While trying to prove this part of the transaction mentioned in the sale deed she has not however explained how the same land once sold through the registered sale deed to Srinivasulu can be sold again to her in 1964. In the absence of proof of continuous possession in the shape of copies of village records or receipts in token of cist having been paid by her vendors, it should be presumed that the land was not in their possession by virtue of registered sale deed of 1929 either immediately prior to the take over or afterwards. There is thus no proof of lawful induction of the claimant or her predecessor in title in this case as rightly observed by the D.O.S.
>
> In spite of the Commissioner, SS & LR., pointing out in his remand order to

correct the survey number they have repeatedly inducted the land as being in survey No.162/2 in stead of 167/2. With this correction the revision petition is dismissed."

The aforequoted portion of the order dated 11.7.1994 of the first respondent succinctly spells out the reasons for which the petitioner must fail. In my considered view, the claim of the petitioner was rightly rejected by the respondents. It cannot be gainsaid that the scope of interference by this Court in a Writ petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorari is very limited and this Court is not obliged to adjudicate upon disputed questions of fact. In this case, it is the concurrent finding recorded by all the three authorities that the petitioner had failed to prove her possession in respect of the land in question through a valid document. Such a finding was recorded at by the authorities, based on evidence and appreciation thereof, by assigning cogent and convincing reasons. Viewed from any angle, the impugned order does not call for any interference by this Court and this writ petition deserves to be dismissed.

Accordingly, the writ petition is dismissed. It is needless to mention that the interim stay granted on 14-9-1995 shall stand vacated. No costs.

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T. MEENA KUMARI, J

Dt. 17.2.2004

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THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 20748 of 1995

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17th February 2004

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To

1 The Commissioner of Survey & Settlements, Govt of A.P, Hyderabad.
2 The Director of Settlements Nampally, Hyderabad.
3 The Settlements Officer, Vishakapatnam.
4 The Mandal Revenue Officer, Seetha Nagaram Mandal, E.G.District.

5 Two CCs to GP for Revenue, High Court Buildings, Hyderabad(OUT)

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